

IC 13-18-10

Chapter 10. Confined Feeding Control

IC 13-18-10-1

Department approval necessary for confined feeding operations; NPDES permits

Sec. 1. (a) A person may not start construction of a confined feeding operation without obtaining the prior approval of the department.

(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval. *As added by P.L.1-1996, SEC.8. Amended by P.L.24-2004, SEC.3.*

IC 13-18-10-2

Applications for approval

Sec. 2. (a) Application for approval of the construction of a confined feeding operation must be made on a form provided by the department. An applicant must submit the completed application form to the department together with the following:

- (1) Plans and specifications for the design and operation of manure treatment and control facilities.
- (2) A manure management plan that outlines procedures for the following:
 - (A) Soil testing.
 - (B) Manure testing.
- (3) Maps of manure application areas.
- (4) Supplemental information that the department requires, including the following:
 - (A) General features of topography.
 - (B) Soil types.
 - (C) Drainage course.
 - (D) Identification of nearest streams, ditches, and lakes.
 - (E) Location of field tiles.
 - (F) Location of land application areas.
 - (G) Location of manure treatment facilities.
 - (H) Farmstead plan, including the location of water wells on the site.
- (5) A fee of one hundred dollars (\$100). The department shall refund the fee if the department does not make a determination in accordance with the time period established under section 2.1 of this chapter.

(b) An applicant who applies for approval to construct a confined feeding operation on land that is undeveloped or for which a valid existing approval has not been issued shall make a reasonable effort to provide notice:

- (1) to:
 - (A) each person who owns land that adjoins the land on which the confined feeding operation is to be located; or
 - (B) if a person who owns land that adjoins the land on which the confined feeding operation is to be located does not

occupy the land, all occupants of the land; and
(2) to the county executive of the county in which the confined feeding operation is to be located;
not more than ten (10) working days after submitting an application. The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this subsection. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this subsection.

(c) Plans and specifications for manure treatment or control facilities for a confined feeding operation must secure the approval of the department. The department shall approve the construction and operation of the manure management system of the confined feeding operation if the commissioner determines that the applicant meets the requirements of:

- (1) this chapter;
- (2) rules adopted under this chapter;
- (3) the water pollution control laws;
- (4) rules adopted under the water pollution control laws; and
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.4.

IC 13-18-10-2.1

Approval procedure; requirements; revocation

Sec. 2.1. (a) The department:

- (1) shall make a determination on an application not later than ninety (90) days after the date the department receives the completed application, including all required supplemental information, unless the department and the applicant agree to a longer time; and
- (2) may conduct any inquiry or investigation, consistent with the department's duties under this chapter, the department considers necessary before making a determination.

(b) If the department fails to make a determination on an application not later than ninety (90) days after the date the department receives the completed application, the applicant may request and receive a refund of an approval application fee paid by the applicant, and the commissioner shall:

- (1) continue to review the application;
- (2) approve or deny the application as soon as practicable; and
- (3) refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(c) The commissioner may suspend the processing of an application and the ninety (90) day period described under this section if the department determines within thirty (30) days after the department receives the application that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies

the parts of the application that:

- (1) do not contain adequate information for the department to process the application; or
- (2) are not consistent with applicable law.

(d) The department may establish requirements in an approval regarding that part of the confined feeding operation that concerns manure handling and application to assure compliance with:

- (1) this chapter;
- (2) rules adopted under this chapter;
- (3) the water pollution control laws;
- (4) rules adopted under the water pollution control laws; and
- (5) policies and statements adopted under IC 13-14-1-11.5 relative to confined feeding operations.

(e) The department may amend an approval or revoke an approval:

- (1) for failure to comply with:
 - (A) this chapter;
 - (B) rules adopted under this chapter;
 - (C) the water pollution control laws; or
 - (D) rules adopted under the water pollution control laws;and
- (2) as needed to prevent discharges of manure into the environment that pollute or threaten to pollute the waters of the state.

As added by P.L.125-1997, SEC.5.

IC 13-18-10-2.2

Construction of confined feeding operation

Sec. 2.2. (a) If an applicant receives an approval under this chapter and completes construction, not more than thirty (30) days after the date the applicant completes the construction the applicant shall execute and send to the department an affidavit that affirms under penalties of perjury that the confined feeding operation:

- (1) was constructed; and
- (2) will be operated;

in accordance with the requirements of the department's approval.

(b) Construction of an approved confined feeding operation must:

- (1) begin not later than two (2) years; and
- (2) be completed not later than four (4) years;

after the date the department approves the construction of the confined feeding operation or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation have been completed, whichever is later.

As added by P.L.125-1997, SEC.6.

IC 13-18-10-2.3

Manure management plan

Sec. 2.3. A confined feeding operation must submit a manure management plan that outlines procedures for soil testing, manure testing, and maps of manure application areas to the department at

least one (1) time every five (5) years to maintain valid approval for the confined feeding operation under this chapter.

As added by P.L.125-1997, SEC.7.

IC 13-18-10-2.6

Compliance and technical assistance program

Sec. 2.6. The department shall establish a compliance and technical assistance program for owners and operators of confined feeding operations that may be administered by:

- (1) the department;
- (2) a state college or university; or
- (3) a contractor.

As added by P.L.125-1997, SEC.8.

IC 13-18-10-3

Enforcement of chapter

Sec. 3. This chapter, including requirements established in a department approval under section 2 of this chapter, may be enforced under IC 13-30-3 or IC 13-14-2-6.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.9.

IC 13-18-10-4

Rules, policies, and statements; uniform standards

Sec. 4. (a) The board may adopt rules under IC 4-22-2 and IC 13-14-9 and the department may adopt policies or statements under IC 13-14-1-11.5 that are necessary for the proper administration of this chapter. The rules, policies, or statements may concern construction and operation of confined feeding operations and may include uniform standards for:

- (1) construction and manure containment that are appropriate for a specific site; and
- (2) manure application and handling that are consistent with best management practices:
 - (A) designed to reduce the potential for manure to be conveyed off a site by runoff or soil erosion; and
 - (B) that are appropriate for a specific site.

(b) Standards adopted in a rule, policy, or statement under subsection (a) must:

- (1) consider confined feeding standards that are consistent with standards found in publications from:
 - (A) the United States Department of Agriculture;
 - (B) the Natural Resources Conservation Service of the United States Department of Agriculture;
 - (C) the Midwest Plan Service; and
 - (D) university extension bulletins; and
- (2) be developed through technical review by the department, university specialists, and other animal industry specialists.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.10.

IC 13-18-10-5

Injunctive relief

Sec. 5. The department may seek injunctive relief under this chapter.

As added by P.L.1-1996, SEC.8. Amended by P.L.125-1997, SEC.11.

IC 13-18-10-6**Violations; penalties**

Sec. 6. A person who violates this chapter is subject to the penalties imposed by the following:

- (1) IC 13-30-4.
- (2) IC 13-30-5.
- (3) IC 13-30-6.
- (4) IC 13-30-8.

As added by P.L.1-1996, SEC.8.